

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

IN RE:

HOLLIS RIGGINS,

Debtor.

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§  
§  
§

Case No. 24-60009  
Chapter 13

**MOTION FOR RELIEF FROM AUTOMATIC STAY OF MARIA  
ERLINDA PRIMERA TO COMPLETE PROSECUTION OF DIVORCE  
ACTION**

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR  
INTERESTS.**

**IF NO TIMELY RESPONSE IS FILED WITHIN 14 DAYS FROM THE DATE OF  
SERVICE, THE RELIEF REQUESTED HEREIN MAY BE GRANTED WITHOUT A  
HEARING BEING HELD.**

**A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO BE HELD.**

**TO THE HONORABLE MICHAEL M. PARKER, U.S. BANKRUPTCY JUDGE:**

Maria Erlinda Primera (“Primera”), creditor and party in interest, files this *Motion for Relief from Automatic Stay of Maria Erlinda Primera to Complete Prosecution of Divorce Action* (the “Motion”) asking the Court to terminate the Code § 362 stay so that Primer may continue prosecution of the pending marriage dissolution proceedings pending in Dallas County, Texas.

**INTRODUCTION**

1. Primera seeks stay relief to further conduct discovery and to complete the prosecution of the pending marital dissolution action commenced by the Debtor against Primera, which action is styled and captioned as Case No. DF-23-08641, *Hollis Wayne Riggins, Petitioner vs. Erlinda Maries Primera, Respondent* (the “Divorce Proceeding”) in the 303rd District Court, Dallas County, Texas (the “State Court”).

### **JURISDICTION, VENUE, FINAL ORDERS**

2. This Court has jurisdiction over this Motion pursuant to Sections 105, 362, 502, 506, and 1301 et seq. of the United States Bankruptcy Code, Title 11 of the U.S. Code, 11 U.S.C. §101 et seq. (the “Code” or “Bankruptcy Code”), and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules” or individually a “Bankruptcy Rule”), and 28 U.S.C. §§157, 1334, 4001.

3. This matter constitutes a core proceeding under 28 U.S.C. §157(b).

4. Venue is proper under 28 U.S.C. §§1408 and 1409.

5. The Court has constitutional authority to decide this Motion and enter final orders under *Stern v. Marshall*, 564 U.S. 462 (2011) and its progeny.

### **FACTUAL BACKGROUND**

6. On June 20, 2023, Debtor commenced the Divorce Proceeding against Primera.

7. Primera has answered and asserted counter-claims in the Divorce Proceeding.

8. The Divorce Proceeding involves only the division of property, and is not a SAPCR proceeding or otherwise involving any children.

9. On September 25, 2023, the State Court entered an order (the “Discovery Order”) compelling Debtor to comply with certain outstanding discovery requests including but not limited to the production of documents to Primera including financial records and/or tax returns.

10. The Debtor did not fully comply with the order compelling discovery.

11. On November 22, 2023, Primera filed a motion to hold the Debtor in contempt for failing to comply with the Discovery Order.

12. On December 11, 2023, the Court set a hearing for Monday morning, January 8, 2024 to consider the motion for contempt (the “Contempt Hearing”).

13. On January 5, 2024, on the Friday prior to the Contempt Hearing, the Debtor commenced this case, which action stayed the Contempt Hearing and the rest of the Divorce Action.

14. On information and belief, Debtor commenced this case in bad faith and for the illegitimate purposes: of delaying his divorce proceedings; avoiding contempt in the State Court; and delaying the production of financial records and/or tax returns.

### **RELIEF REQUESTED**

15. Primera respectfully requests that the Court lift, annul, and terminate the automatic stay of Code § 362(a) so that the Divorce Action may proceed to a final adjudication in the state court, including dividing property that may be property of the estate.

16. Additionally, and/or alternatively, Primera requests that the Court confirm that the Code § 362(b)(2)(A)(iv) permits the Divorce Action to proceed to a final adjudication.

17. Primera further requests that the Court terminate the 14-day stay of Rule 4001(a)(3) so that relief from the stay immediately is effective.

18. A proposed form of order accompanies this Motion and is incorporated by reference herein.

### **BASIS OF RELIEF**

19. Courts routinely modify the automatic stay to permit martial dissolution actions to proceed to a final conclusion.

20. Cause exists to modify the stay to permit the immediate resumption of the Divorce Proceeding, including the enforcement of the contempt powers of the State Court, against the Debtor, and then to promptly proceed to a final adjudication.

21. The Debtor is the Petitioner in the Divorce Proceeding, and this case and its all-too-convenient timing should not be an impediment to the promptly and timely resolution of the Divorce Proceeding.

22. In other words, Primera should not be left in limbo awaiting the conclusion of the Divorce Proceeding commenced by the Debtor because the Debtor filed this case in general, and specifically to avoid production of financial records and tax returns.

### **CONCLUSION AND PRAYER**

WHEREFORE, Michael Allen Primera, creditor and party in interest, respectfully requests that the Court (i) lift, annul, and terminate the automatic stay of Code § 362(a) so that the Divorce Action may proceed to a final adjudication in the state court, including dividing property that may be property of the estate. Primera further requests that the Court terminate the stay of Fed. R. Bankr. P. 4001(a)(3) and make the Order effective immediately upon entry. Primera respectfully requests such other and further relief to which he is entitled at law or in equity.

Dated: February 22, 2024

Respectfully submitted:

WEYCER, KAPLAN, PULASKI & ZUBER, P.C.

By: /s/ Jeff Carruth

JEFF CARRUTH (TX SBN: 24001846)

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**ATTORNEYS FOR:  
LINDA PRIMERA**

**CERTIFICATE OF SERVICE**

The undersigned spoke with opposing Debtor's counsel prior to filing this motion. As of the date filing, the motion is opposed.

/s/ Jeff Carruth

JEFF CARRUTH

**CERTIFICATE OF SERVICE**

The undersigned certifies that on February 22, 2024, a true and correct copy of the foregoing motion was served upon (1) by electronic notice to all registered ECF users which have appeared in this case to date, the mailing addresses of which parties appear in the attached matrix, and (2) by regular mail upon all the parties appearing in the table or list below.

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Law Office of Evan Simpson PLLC  
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G. Ray Hendren  
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/s/ Jeff Carruth

JEFF CARRUTH

**24-60009-mmp Notice will be electronically mailed to:**

Jeff Carruth on behalf of Creditor Linda Primera

[jcarruth@wkpz.com](mailto:jcarruth@wkpz.com), [jcarruth@aol.com](mailto:jcarruth@aol.com); [ATTY\\_CARRUTH@bluestylus.com](mailto:ATTY_CARRUTH@bluestylus.com)

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United States Trustee - WA12

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Label Matrix for local noticing  
0542-6  
Case 24-60009-mmp  
Western District of Texas  
Waco  
Thu Feb 22 10:54:12 CST 2024

Bank of America  
Attn: Bankruptcy  
4909 Savarese Circle  
Tampa, FL 33634-2413

MFT- Luxe, LLC  
1300 Placid Circle  
Waco, TX 76706-4501

Synchrony fka Allegro Credit  
c/o Becket and Lee LLP  
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United States Trustee - WA12  
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End of Label Matrix  
Mailable recipients 15  
Bypassed recipients 0  
Total 15

Amex  
Correspondence/Bankruptcy  
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El Paso, TX 79998-1540

Internal Revenue Service  
PO Box 7346  
Philadelphia, PA 19101-7346

Synchrony Bank/ Miracle Ear  
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Draper, UT 84020-6425

US Bank/RMS  
Attn: Bankruptcy  
PO Box 5229  
Cincinnati, OH 45201-5229

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Austin, TX 78759-8794

**PROPOSED FINAL ORDER**



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UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION

IN RE:

HOLLIS RIGGINS,

Debtor.

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§  
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§  
§

Case No. 24-60009  
Chapter 13

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**FINAL ORDER GRANTING MOTION FOR RELIEF FROM  
AUTOMATIC STAY OF MARIA ERLINDA PRIMERA TO COMPLETE  
PROSECUTION OF DIVORCE ACTION (RE: DOCKET NO. 13)**

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On this day the Court considered the *Motion for Relief from Automatic Stay of Maria Erlinda Primera to Complete Prosecution of Divorce Action* (Docket No. 13) (the “Motion”) filed herein on February 22, 2024 by Maria Erlinda Primera (“Primera”), creditor and party in interest. The Court finds and concludes that the Motion contained the appropriate notices under the Bankruptcy Local Rules; according to the certificate of service attached to the Motion, the Motion was served upon the parties entitled to receive notice under the Bankruptcy Local Rules; no party in interest filed a response or objection to the Motion or any such response or objection

is overruled by this Order; and that upon review of the record of this case and with respect to the Motion that cause exists to grant the relief requested therein.

**IT IS THEREFORE ORDERED THAT:**

1. The Motion is granted as set forth herein.
2. All capitalized terms shall have the same meaning as ascribed to such terms in the Motion, unless otherwise defined herein.
3. The automatic stay of 11 U.S.C. is hereby immediately lifted, annulled, and terminated so that Primera may prosecute the Divorce Action to a final adjudication in the State Court, including seeking and obtaining a division of property that may be property of the estate.
4. The relief granted in this order is effective immediately upon entry, and the 10-day stay of Rule 4001(a)(3) shall not apply.

Submitted by:

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**ATTORNEYS FOR LINDA PRIMERA**